

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-215080

DATE: May 29, 1984

MATTER OF: Jefferson Construction Corporation

DIGEST:

Protester's interpretation of solicitation "Basis of Award" provision is not reasonable where it would preclude evaluation of solicited options by failing to give meaning to language which provides for such evaluation.

Jefferson Construction Corporation (Jefferson) protests the proposed award of contract No. GS-01B-01962, issued by the General Services Administration (GSA) to J. Slotnick Company (Slotnick) for building modernization.

We deny the protest.

While the protest was pending with our Office, Jefferson filed suit against the government in the United States Claims Court (Civil Action No. 215-84C). By court order dated May 2, 1984, and received by GAO on May 7, 1984, the court requested this Office to render a decision on Jefferson's bid protest and file our decision with the court by the close of business on May 31, 1984.

Jefferson argues that it is the low bidder under the solicitation award provision and that GSA's determination that Slotnick is the low bidder is based on an improper interpretation of the solicitation. The issue is the proper interpretation and application of the following solicitation clause which provides the basis for evaluation of bids.

"13. Basis of Award:

"13.1 The Government reserves the right to accept, as may be determined by the Contracting Officer to be in the best interest of the Government, the lump sum bid, and any, some or all of the bids on Alternates, Elevator Maintenance Option bid and Option 'A' bid.

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"13.2 For purposes of determining the relative standing of the bidders in making an award, there shall be added to the lump sum bid or deducted from (as appropriate):

"13.2.1 The amount of such Alternate bid as may be accepted by the Government.

"13.2.2 The bid on the Maintenance Option.

"13.2.3 The bid on Option 'A'.

"13.2.4 The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the BASE BID item, plus (in the order or priority listed in the Schedule or Bid Items) those additive bid items (Bid Alternates) providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount [shall be added if award thereon can be made within such funds. . . .]

. . . .

"13.2.5 SCHEDULE OF BID ITEMS. The order of priority in which the additive bid items (Bid Alternates) will be considered in aggregate with the BASE BID to determine the low bidder within funds available shall be as follows:

"(Bid Alternate)	(Title)
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"13.2.6 MAINTENANCE SERVICE OPTION PRICE FOR ELEVATORS. The bid on the Maintenance Option will not be included in the construction award amount but will be used in determining the relative standing of the bidders.

"13.2.6.1 The Government reserves the right to exercise the option to the commencement date of the guarantee period or up to acceptance and use by the Government of the first elevator if acceptance is staggered.

"13.2.7 OPTION 'A' FOR FITNESS CENTER.

The bid on the Fitness Center Option will not be included in the construction award amount but will be used in determining the relative standing of the bidders.

"13.2.7.1 The Government reserves the right to exercise Option 'A' at any time up to ninety (90) calendar days after the notice to proceed."

Jefferson and GSA agree that GSA advised at bid opening that \$5.2 million were available for funding this project. The contracting officer determined that paragraph 13 required evaluation of bids on the basis of the base bid, bid alternates, that is, additional bid items beyond the base bid, and both bid options. In accordance with subparagraph 13.2.4, the maximum amount of the base bid and bid alternate work that could be funded with \$5.2 million was the base bid and alternates "C" and "G," which were the first two in order of priority. Jefferson's bid is lowest for this portion of the work at a price of \$5,198,000. Slotnick's comparable price was \$5,203,000. GSA then added for evaluation purposes the option prices. As a result, Slotnick became overall low bidder with a total evaluated bid price of \$5,263,000 (\$5,203,000 plus \$60,000 for the two options). Jefferson's total evaluated bid price was \$5,265,000 (\$5,198,000 plus \$67,000).

Jefferson argues that paragraph 13 designates as low bidder the bidder offering the low aggregate amount for the base bid item, plus, in order of priority, those bid alternates providing the most features of the work within the funds determined by the government to be available before bids are opened. Jefferson argues that GSA misconstrues the solicitation language as permitting evaluation of the base bid and alternates within the \$5.2 million, plus options. Jefferson asserts that options properly may be evaluated only to the extent funds are available at the time of bid opening. In this connection, Jefferson points out that the funding limitation language refers only to evaluation of base bids and alternates, not options, that the language also states that options will not be included in the construction award amount and that nowhere does the solicitation indicate options would be evaluated.

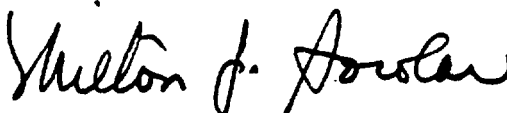
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Our Office has held that a solicitation must be read as a whole in a reasonable manner. See Byrd Tractor, Inc., B-212449, December 13, 1983, 83-2 CPD 677. Also, when interpreting contract provisions, no provision should be rendered meaningless. Raytheon Company v. United States, 2 Cl. Ct. 763 (1983).

While we recognize that the solicitation award clause is somewhat confusing, in our view, Jefferson's interpretation of the award clause is selective and fails to give meaning to or disregards other relevant parts of the clause. Specifically, Jefferson ignores the provisions of section 13.2 preceding section 13.2.4, which provides for considering the options in determining the relative standing of bidders for award. Also, Jefferson's argument does not consider the language of sections 13.2.6, 13.2.6.1, 13.2.7 and 13.2.7.1 which follow section 13.2.4. These sections state that the options would be considered in determining the relative standing of the bidders. As GSA reports, the option work represents known requirements and the contracting officer is reasonably certain that funds will be available to exercise both options. Our interpretation is supported also by the sequence of the subparagraphs and sections. The funding limitation formula section does not stand on its own, but is, rather, a section, 13.2.4, under subparagraph 13.2, which provides for determining the overall low bidder. Thus, while Jefferson was low under the funding limitation formula for the base bid and additional items within the \$5.2 million limitation, under the paragraph, as a whole, GSA properly could evaluate the options in determining the relative standing of bidders and find Slotnick low.

Finally, since Slotnick is low bidder under what we believe is the only reasonable interpretation of the award clause, we have no reason to object to GSA's proposed intention to award all alternate items to Slotnick, as the result of obtaining additional funds after bid opening, because Slotnick remains low bidder when these additional alternate items are considered.

Accordingly, the protest is denied and award to Slotnick is proper.

for 
Comptroller General
of the United States